

Application No.: 10/528,793  
Amendment Dated: October 7, 2009  
Reply to Office Action of: June 8, 2009

MTS-3553US

**Remarks/Arguments:**

Claims 1-11 are pending and stand rejected.

By this Amendment, claims 1-10 have been amended.

No new matter is presented by these claim amendments. Support for the claim amendments can be found throughout in the original specification and, for example, in the original specification at page 11, lines 2-5; page 13, lines 3-4; page 18, second paragraph and FIGs. 1-3.

**Rejection of Claims 1-3 and 5-11 under 35 U.S.C. §102(e)**

In the Office Action, at item 3, claims 1-3 and 5-11 are rejected under 35 U.S.C. §102(e) as anticipated by Ellis (U.S. Patent Publication No. 2004/0103434, hereafter referred to as Ellis).

Reconsideration is respectfully requested.

**Claim 1**

Claim 1 is directed to a disk apparatus, and recites:

... a storage section of storing either one of the disk start disabling mode or the disk start enabling mode which is set by said disk start mode setting section,

wherein at a time when power ON operation is carried out, in the case (1) when said storage section stores said disk start disabling mode, said disk start controller carries out control so as to apply power to said processing section without applying power to said disk section, and in the case (2) when said storage section stores said disk start enabling mode, said disk start controller carries out control so as to apply power to said disk section and said processing section,

(hereafter referred to as the storage/mode feature). That is, when the storage section stores the disk start disabling mode, the disk start controller carries out control to apply power to said processing section without applying power to the disk section. Furthermore, when the storage section stores the disk start enabling mode, the disk

start controller carries out control to apply power to the disk section and the processing section.

### **Ellis Reference**

In the Office Action, at page 3, the Examiner contends that Ellis discloses that:

... at a time when power ON operation is carried out ... ,  
in the case (1) when said disk start mode setting  
means sets said disk start disabling mode (record NO),  
said disk start control means carries out control so as  
to start said processing section (tuner) without starting  
said disk section (hard disk), and in the case (2) when  
said disk start mode setting means sets said disk start  
enabling mode (record Yes), said disk start control  
means carries out control so as to start said disk  
section (hard disk) and said processing section (tuner)  
(Paragraph 106 discloses the option to either record or  
not record. If record Yes is chosen, paragraph 63  
discloses the tuner and hard disk working  
simultaneously also see [59] and [60]).

That is, the Examiner appears to contend that the operational mode (i.e., disk start enabling mode or disk start disabling mode) is based on the option to record via a "Yes" option from the user or to not record via a "No" option from the user. Paragraph [0106] of Ellis discloses that the user may position highlight region 184 on top of either yes option 183 or no option 185. When the user presses the OK key 84, the interactive television application may then take appropriate actions. That is, Ellis discloses that if the user presses OK key 84 when a program listing for a future program is highlighted, the interactive television application provides the user with an opportunity to record that program. (See Ellis at paragraph [0090].) Ellis, however, is silent regarding the use of a storage section to store a disk start disabling mode or a disk start enabling mode. Furthermore, Ellis is silent regarding the recitation in claim 1 of:

... at a time when power ON operation is carried out ...  
(1) when said storage section stores said disk start  
disabling mode, said disk start controller carries out  
control so as to apply power to said processing section  
without applying power to said disk section, and ... (2)  
when said storage section stores said disk start

enabling mode, said disk start controller carries out control so as to apply power to said disk section and said processing section. (emphasis added)

This is because in Ellis, when the user selects either the "Yes" option or the "No" option, the appropriate devices merely operate in accordance with the instructions from the user and, in particular, does not operate in accordance with a stored mode setting (i.e., the stored disk start disabling mode or the stored disk start enabling mode).

Accordingly, claim 1 is submitted to patentably distinguish over Ellis for at least the above set forth reasons.

#### **Claim 9**

Claim 9, which includes similar but not identical features to those of claim 1, is submitted to patentably distinguish over Ellis for at least similar reasons to those regarding claim 1.

#### **Claims 2-3, 5-8 and 10-11**

Claims 2-3, 5-8 and 10-11, which include all of the limitations of claim 1 or claim 9, are submitted to patentably distinguish over Ellis for at least the same reasons as their respective independent claims.

#### **Rejection of Claim 4 under 35 U.S.C. §103(a)**

In the Office Action, at item 5, claim 4 is rejected under 35 U.S.C. §103(a) as obvious over Ellis in view of Lee et al. (U.S. Patent No. 6,466,391, hereafter referred to as Lee).

Reconsideration is respectfully requested.

Claim 4, which includes all of the limitations of claim 1, is submitted to patentably distinguish over Ellis for at least the same reasons as claim 1.

The addition of Lee does not overcome the deficiencies of Ellis. This is because, Lee does not disclose or suggest the storage/mode feature recited in claim 1. That is,

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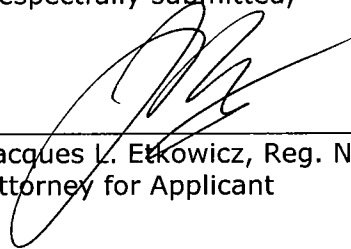
Lee, which is used by the Examiner to teach a safety zone on a hard disk, does not contemplate, for example, the storage of mode settings or the use of such stored mode settings.

Accordingly, claim 4 is submitted to patentably distinguish over Ellis in view of Lee for at least the same reasons as claim 1.

### **Conclusion**

In view of the claim amendments and remarks set forth above, Applicant submits that the application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,



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